



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/583,668

06/21/2006

Olov Schelen

NET-6465

7842

25962 7590 01/14/2009
SLATER & MATSIL, L.L.P.
17950 PRESTON RD, SUITE 1000
DALLAS, TX 75252-5793

EXAMINER

ABDALLA, KHALID M

ART UNIT

PAPER NUMBER

4173

MAIL DATE

DELIVERY MODE

01/14/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/583,668	Applicant(s) SCHELEN ET AL.	
	Examiner KHALID ABDALLA	Art Unit 4173	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>06/21/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This application has been examined .Claims 1-16 are pending in this application

Information Disclosure Statement

2. The Examiner has considered the references listed on the Information Disclosure statement submitted on 06/21/2006 (see attached PTO-1449).

Drawings

3. The examiner contends that the drawings submitted on 06/21/2006 are acceptable for examination proceedings.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 9-10 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Note that claim 9, calls for [a computer program product directly loadable into the internal memory of a computer] .The claim recites that the product is loadable but not necessarily loaded. Thus the claim rejected under 35 U.S.C. 101 as being directed to a software per se.

Art Unit: 4173

Regarding claim 10 which calls for [a computer program product stored on a computer usable medium] .The claim recite computer usable medium .However applicant disclosure offers no specific definition / scope of what usable medium is meant to cover. Based on a generic dictionary meaning, a computer usable medium is defined as both statutory (storage medium) and non statutory (such as transmission medium), which are both computer usable medium. Thus, since one of ordinary skills in the art could interpret the medium as a transmission medium, the claim rejected as being directed to a not statutory subject matter.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Norrgard et al (US 20040082338 A1).

Regarding claim1, Norrgard disclose the method for controlling the forwarding quality in a data network comprising a measurement manager (104) comprising means

Art Unit: 4173

for performing end-to-end measurements (automatic network resource management for providing appropriate end-to-end QoS see[0028] also see[0054]) between nodes in said data network and a Network Resource Manager, NRM (the information is used by the NRM to complement the gained routing topology information and make sure that it has an accurate view of the routing topology [0054]), (102) comprising means for obtaining information of the network topology, the method is characterized in that it comprises the steps of:

transferring (501) the obtained information of the network routing topology from the NRM to the measurement manager or transferring a result of the performed end-to- end measurements from a measurement manager to the NRM (The NRM gains its dynamic topology awareness by retrieving routing information concerning the IP network, i.e. the topology of the IP network the NRM participates in the routing and acts as a router see [0053]). and

combining (502) said end-to-end measurements and said obtained information of the network routing topology into a first information set in order to detect correlated and uncorrelated paths (The call admission control is path-sensitive, i.e. the NRM checks that resources are available along the path that will be used by the traffic concerned by a resource request [0055]).

Regarding claim 2, Norrgard disclose the method, comprising the further step of: combining said first information set with information on data flow presence at individual

Art Unit: 4173

out-interfaces (When the NRM has retrieved the routing information, it uses a network management protocol, such as SNMP, to collect information on the routers and their interfaces[0054]).

Regarding claim 3, Norrgard discloses the method, comprising the further step of: scheduling the transfer of the obtained information of the network routing topology over time or initiating the transfer of the obtained information of the network routing topology periodically (start and a stop time as a parameter in the resource request, resources can be scheduled over time. This allows the NRM to handle resource requests for both immediate and future use. Resource requests contain at least information about the end-points between which the resources are needed and the required amount of resources needed see [0056], [0055] and [0054]).

Regarding claim 4, Norrgard discloses, comprising the further step of: scheduling the transfer of the result of the performed end-to-end measurements over time or initiating the transfer of the result of the performed end-to-end measurements periodically (start and a stop time as a parameter in the resource request, resources can be scheduled over time. this allows the NRM to handle resource requests for both immediate and future use see [0056],[0055]and [0054]).

Regarding claim 5, Norrgard discloses the method, comprising the further step of:

Art Unit: 4173

requesting the transfer of the obtained information of the network routing topology explicitly by a master manager such as a measurement manager (when a service is about to start and resources are requested the NRM uses hence its knowledge of the network topology and resource usage at each link in the network domain it controls to calculate if there are resources available to accept the resource request see [0068]).

Regarding claim 6, Norrgard discloses the method, comprising the further step of: requesting the transfer of the result of the performed end-to-end measurements explicitly by a master manager such as an NRM (The NRM combines the routing information and resource information it receives from call set-up requests to create a resource map. Measurements can be either collected from the network by the NRM or provided by network elements (routers, switches, etc.) to the NRM [0055]).

Regarding claim 7, Norrgard discloses comprising the further step of: triggering the transfer of the obtained information of the network routing topology by specific events in a slave manager such as the NRM defined by a master manager such as the measurement manager (the bearer service manager sends a resource request to an NRM to guarantee that there are sufficient network resources in its system domain see [0062] and see e.g. an MT that initiates a call to a phone in a Public Switched Telephone Network [0061] and FIG.4).

Regarding claim 8, Norrgard discloses the method according to, comprising the

Art Unit: 4173

further step of:

triggering the transfer of the result of the performed end-to-end measurements by specific events in a slave

manager such as the measurement manager defined by a master manager such as the NRM (end-to-end QoS is obtained by letting NRMs control separate parts of the IP network, e.g. a first NRM controls resources within a RAN, and a second NRM controls resources within a CN. The NRMs and the bearer service manager, that controls the radio resources within the wireless part, communicate hence their resource needs between each other through the system in order to obtain end-to-end QoS see [0079] and also see the NRM bearer service manager [0061]).

Regarding claim 9, Norrgard discloses a computer program product directly loadable into the internal memory of a computer (The method may be implemented by means of a computer program product comprising the software code means for performing the steps of the method 0077]) within one or more nodes in a data network, comprising the software code portions for performing the steps of claim 1 (The interaction between the NRM and the requesting entity/function can be implemented in a number of ways, e.g. via a communication protocol, inter process communication, functional calls between integrated software modules, etc. depending on how the NRM is running in the system [0056]).

Regarding claim 10, Norrgard discloses a computer program product stored on a

Art Unit: 4173

computer usable medium (The computer program is loaded directly or from a computer usable medium [0078]), comprising readable program for causing a computer, within one or more nodes in a data network to control an execution of the steps of claim 1 (The method may be implemented by means of a computer program product comprising the software code means for performing the steps of the method [0078]).

Regarding claim 11, Norrgard discloses the method according to claim 2, comprising the further step of:
scheduling the transfer of the obtained information of the network routing topology over time or initiating the transfer of the obtained information of the network routing topology periodically (start and a stop time as a parameter in the resource request, resources can be scheduled over time. This allows the NRM to handle resource requests for both immediate and future use. Resource requests contain at least information about the end-points between which the resources are needed and the required amount of resources needed see [0056],[0055] and [0054]).

Regarding claim 12, Norrgard discloses Method according to claim 2, comprising the further step of:
scheduling the transfer of the result of the performed end-to-end measurements over time or initiating the ~transfer of the result of the performed end-to-end measurements periodically (start and a stop time as a parameter in the resource request, resources can be scheduled over time. This allows the NRM to handle resource requests for both

Art Unit: 4173

immediate and future use. Resource requests contain at least information about the end-points between which the resources are needed and the required amount of resources needed see [0056], [0055] and [0054]).

Regarding claim 13, Norrgard discloses method, comprising the further step of: requesting the transfer of the obtained information of the network routing topology explicitly by a master manager such as a measurement manager (when a service is about to start and resources are requested the NRM uses hence its knowledge of the network topology and resource usage at each link in the network domain it controls to calculate if there are resources available to accept the resource request see [0068])..

Regarding claim 14, Norrgard discloses method, comprising the further step of: requesting the transfer of the result of the performed end-to-end measurements explicitly by a master manager such as an NRM (The NRM combines the routing information and resource information it receives from call set-up requests to create a resource map. Measurements can be either collected from the network by the NRM or provided by network elements (routers, switches, etc.) to the NRM [0055]).

Regarding claim 15, Norrgard discloses method, comprising the further step of: triggering the transfer of the obtained information of the network routing topology by specific events in a slave manager such as the NRM defined by a master manager such as the measurement manager (the bearer service manager sends a resource request

Art Unit: 4173

to an NRM to guarantee that there are sufficient network resources in its system domain see [0062] and see e.g. an MT that initiates a call to a phone in a Public Switched Telephone Network [0061] and FIG.4).

Regarding claim 16, Norrgard discloses method, comprising the further step of: triggering the transfer of the result of the performed end-to-end measurements by specific events in a slave manager such as the measurement manager defined by a master manager such as the NRM (end-to-end QoS is obtained by letting NRMs control separate parts of the IP network, e.g. a first NRM controls resources within a RAN, and a second NRM controls resources within a CN. The NRMs and the bearer service manager, that controls the radio resources within the wireless part, communicate hence their resource needs between each other through the system in order to obtain end-to-end QoS see [0079] and also see the NRM bearer service manager [0061]).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Bearden et al (US 20030091165 A1) Report generation and visualization systems and methods and their use in testing frameworks for determining suitability of a network for target applications.

Bodin et al (US 20050073954 A1) Method and arrangement in a communication system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KHALID ABDALLA whose telephone number is (571)270-7526. The examiner can normally be reached on MONDAY THROUGH FRIDAY 7 AM TO 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JINHEE LEE can be reached on 571-272-1977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 4173

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/K. A./
Examiner, Art Unit 4173

/Yemane Mesfin/
Examiner, Art Unit 2444